

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID M. LEJA,)	
Petitioner)	
)	
v.)	CIVIL ACTION NO. 06-30169-MAP
)	
UNITED STATES OF AMERICA,)	
Respondent)	

MEMORANDUM AND ORDER REGARDING MOTION FOR
CERTIFICATE OF APPEALABILITY
(Docket No. 56)

June 22, 2007

PONSOR, D.J.

Petitioner was convicted on December 14, 2004 on numerous counts of health care fraud, mail fraud, and obstruction of justice. He was subsequently sentenced to thirty months in prison and three years of supervised release.

On October 2, 2006, Petitioner, represented by counsel, filed his original petition pursuant to 28 U.S.C. § 2255 (Dkt. No. 1). The procedural course of the petition was rather elaborate, involving an immediate hearing on certain claims, withdrawal of counsel, and amendment of the petition. On May 16, 2007, the court issued its Memorandum and Order denying Petitioner's motion to vacate his sentence and dismissing the petition.

Petitioner has now filed a Motion for a Certificate of Appealability (Dkt. No. 56) and a supplement (Dkt No. 57). For

the reasons set forth in the court's memorandum of May 16, 2007, this motion, along with its supplement, will be denied.

As the May 16, 2007 memorandum indicates, there simply has not been any substantial showing of any denial of a constitutional right. The calculation of the amount of loss, under the circumstances, was highly favorable to Petitioner, resulting in a loss figure of approximately one quarter of what the government sought. Any imprecision in that calculation benefitted Petitioner. Second, there has been no showing that Petitioner was deprived of any significant exculpatory evidence. None of the other bases for habeas relief offered in the petition or supplement raises issues which might be described as debatable among jurists of reason, in the sense that some other court could resolve them in a manner different from the way this court did in the May 16, 2007 memorandum. Unfortunately for Petitioner, his petition simply does not raise questions which deserve encouragement to proceed further on appeal.

Accordingly, the Motion for Certificate of Appealability is hereby DENIED. This case may now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge